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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 JAY G. KIMPEL,

9 Plaintiff,

10 v.

11 BRUK,

12 Defendant.

CASE NO. C25-0486 BHS

ORDER

13 THIS MATTER is before the Court Magistrate Judge Michelle L. Peterson's
14 Report and Recommendation (R&R), Dkt. 6, recommending the Court dismiss pro se
15 plaintiff Jay Kimpel's proposed amended complaint, Dkt. 5 without prejudice, and deny
16 his application to proceed *in forma pauperis*, Dkt. 1, as moot. Kimpel purports to sue a
17 private security guard under 42 U.S.C. § 1983 for punching him during a Home Depot
18 shoplifting incident. Dkt. 5. The R&R correctly concludes that Kimpel has not plausibly
19 alleged that Bruk is a state actor for purposes of § 1983. Dkt. 6 at 2.

20 A district judge must determine de novo any part of a magistrate judge's proposed
21 disposition *to which a party has properly objected*. It must modify or set aside any
22 portion of the order that is clearly erroneous or contrary to law. Fed. R. Civ. P. 72(a). The

1 district judge may accept, reject, or modify the recommended disposition; receive further
2 evidence; or return the matter to the magistrate judge with instructions. Fed. R. Civ. P.
3 72(b)(3). A proper objection requires “specific written objections to the proposed
4 findings and recommendations” in the R&R. Fed. R. Civ. P. 72(b)(2).

5 Kimpel has not objected to the R&R, and it is not clearly erroneous or contrary to
6 law. The R&R is **ADOPTED**, Kimpel’s application to proceed *in forma pauperis* is
7 **DENIED**, and this matter is **DISMISSED** without prejudice and without leave to
8 amend. The Court will not permit Kimpel to appeal *in forma pauperis*.

9 The Clerk shall enter a JUDGMENT and close the case.

10 Dated this 13th day of May, 2025.

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13 BENJAMIN H. SETTLE
14 United States District Judge
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